

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
5:07-CR-00033-KDB-DCK

USA

v.

MICHAEL JEROME HAMPTON

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ORDER

THIS MATTER is before the Court upon motion of the defendant *pro se* for compassionate release based on the COVID-19 pandemic under 18 U.S.C. § 3582(c)(1)(A) and the First Step Act of 2018. (Doc. No. 61). He contends that he is at a heightened risk for death due to COVID-19. His conclusory and unsupported motion will be denied without prejudice.

Section 603(b) of the First Step Act amended § 3582(c)(1)(A), which previously only allowed a court to reduce a term of imprisonment on motion of the Director of Prisons (BOP). Now a court may entertain a motion filed by a defendant: (1) after full exhaustion of all administrative rights to appeal a failure of the BOP to bring a motion on his behalf; or (2) after lapse of 30 days from the receipt of such a request by the warden of his facility, whichever is less.

Here, defendant, claims that he petitioned the warden for compassionate release on April 15, 2020 but attaches no copy of the request. He also claims that the warden denied his petition on May 5, 2020 but again attaches no copy of the denial. Even if the warden denied the defendant's request, the statute requires that he exhaust his administrative rights to appeal the warden's decision before seeking

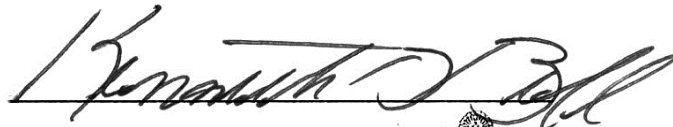
relief from this Court. Likewise, the defendant claims to be a Type 2 diabetic and suffers from sleep apnea, hypertension and obesity but fails to provide medical records to substantiate his medical claims. Therefore, the Court will not consider the merits of his claim. *United States v. Raia*, 954 F.3d 594, 595 (3d Cir. 2020) (denying motion for compassionate release based on COVID-19 where defendant did not seek relief from BOP).

IT IS, THEREFORE, ORDERED, that the defendant's *pro se* motion for compassionate release (Doc. No. 61), is **DENIED** without prejudice to a renewed motion properly supported by evidence and after exhaustion of his administrative remedies.

The Clerk is directed to certify copies of this Order to defendant, the Federal Defender, the United States Attorney, the United States Marshals Service, and the United States Probation Office.

SO ORDERED.

Signed: June 24, 2020

A handwritten signature in black ink, appearing to read "Kenneth D. Bell", written over a horizontal line.

Kenneth D. Bell
United States District Judge

